

The Honorable Ricardo S. Martinez
Chief United States District Judge

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Daniel Ramirez Medina,

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY; U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT; and U.S.
CITIZENSHIP AND IMMIGRATION
SERVICES,

Defendants.

CASE NO. 2:17-CV-00218-RSM-JPD

**PLAINTIFF'S EX PARTE MOTION TO
EXPEDITE CONSIDERATION OF MOTION
FOR PRELIMINARY INJUNCTION (DKT.
122)**

Noted for Consideration: April 12, 2018

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EX PARTE MOTION TO EXPEDITE

CONSIDERATION OF MOTION FOR PRELIMINARY

INJUNCTION

Case No. 2:17-cv-00218-RSM-JPD

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Pursuant to this Court’s Local Rule 7(d)(1), Plaintiff Daniel Ramirez Medina respectfully submits this *ex parte* motion to expedite consideration of his Motion for Preliminary Injunction, Dkt. 122 (“Motion”), because of the now heightened urgency for injunctive relief created by Defendants’ latest efforts to improperly strip Mr. Ramirez of his DACA status based on their false, yet persistent, accusations of gang affiliation in the face of all evidence to the contrary and the government’s own admissions regarding the lack of corroborating evidence.

Specifically, on or about April 3, 2018, Defendants—supposedly in compliance with the February 26, 2018 preliminary injunction order issued by the Central District of California in *Inland Empire–Immigrant Youth Collective v. Nielsen*, which required the government to restore to a certified class of former DACA recipients (including Mr. Ramirez) their DACA and work authorization¹—delivered to Mr. Ramirez confirmation that his DACA and work authorization were being restored, *but also* separately and simultaneously delivered a Notice of Intent to Terminate (“NOIT”) Mr. Ramirez’s just-restored DACA status. In other words, faced with the *Inland Empire II* Order requiring the government to restore Mr. Ramirez’s DACA status, the government has restored that status only to immediately begin new proceedings to wrongfully strip him of his DACA yet again.

Worse, the government’s stated basis for issuing the NOIT is its continued wrongful insistence that Mr. Ramirez poses a public safety concern because he allegedly is gang affiliated, despite its earlier admission in Immigration Court that it had no evidence to support such a conclusion. Moreover, the government has pursued this latest arbitrary and unsupported action while Mr. Ramirez’s Motion is pending in this Court to enjoin Defendants from doing precisely what they just have—using the false record that they created when they first illegally detained Mr. Ramirez against him in subsequent proceedings. Worse yet, Defendants’ tactic appears designed to preempt or at least frustrate this Court’s consideration of Mr. Ramirez’s pending motion.

This Court should not abide such behavior, and should promptly set a hearing on the Motion. Mr. Ramirez has only until May 7, 2018—33 days after issuance of the NOIT—to contest it,

¹ 2018 WL 1061408 (C.D. Cal. Feb. 26, 2018) (“*Inland Empire II* Order”).

heightening the urgency for prompt consideration of the Motion, and for issuance of the requested injunctive relief to prevent further violation of Mr. Ramirez's rights and put a stop to the government's continuing abuses.

A. Defendants' Empty Compliance with the *Inland Empire II* Order Has Only Heightened the Need for Immediate Injunctive Relief to Prevent Further Government Abuse and Violation of Mr. Ramirez's Rights

In his pending preliminary injunction motion, Mr. Ramirez seeks an order restoring him to the status quo before his unlawful detention—including the restoration of his DACA status and work authorization pending a decision on the merits of his claims. The Motion also requests an order directing the government to process Mr. Ramirez's future DACA renewals and work authorization applications without reliance on or reference to the false and unsubstantiated assertion that Mr. Ramirez is a gang member, gang affiliated, or a threat to public safety or national security. Mot. 24; *see also* Reply 11 (Dkt. 124); Am. Proposed Order 1 (Dkt 124-2). For the reasons set forth in the Motion and Reply, such injunctive relief is necessary because of Defendants' continued attempts to wrongfully terminate Mr. Ramirez's DACA status on the basis of alleged gang affiliation in the face of all available evidence to the contrary—including the Defendants' own prior administrative determinations and in-court admissions, and the conclusion of an Immigration Judge (all detailed in the Motion).

As discussed in Defendants' Opposition to the Motion (Dkt. 123) and Mr. Ramirez's Reply (Dkt. 124), on February 26, 2018, in the case *Inland Empire–Immigrant Youth Collective v. Nielsen*, the Central District of California issued an order certifying a class of former DACA recipients and preliminarily enjoined the government to restore DACA status and work authorization to that class of individuals who were denied proper process when the government wrongfully stripped such benefits. Reply 7–9. That class includes Mr. Ramirez. *Id.* Indeed, in Defendants' Opposition, they argued that because "Plaintiff is a putative class member" in *Inland Empire*, "th[is] Court should refrain from ruling on Plaintiff's motion [for a preliminary injunction] because an order certifying the class and enjoining the termination of class-members' DACA, would render Plaintiff's claims here subject to dismissal, or *at the least address his alleged injuries.*" Opp. 7 (emphasis added).

1 Following issuance of the *Inland Empire II* Order, Mr. Ramirez’s counsel conferred with
 2 Defendants’ counsel regarding whether and to what extent the relief provided by the *Inland Empire II*
 3 Order might alleviate the need for relief in this action. Declaration of Nathaniel L. Bach in Support
 4 of Ex Parte Motion (“Bach Decl.”) ¶¶ 2-4. At no time during the parties’ discussions did the
 5 government indicate that it intended to immediately renew its efforts to terminate Mr. Ramirez’s
 6 DACA after restoring it pursuant to the *Inland Empire II* Order. For example, on March 19, 2018,
 7 Defendants’ counsel (the same counsel for the government in *Inland Empire*) informed Mr.
 8 Ramirez’s counsel that “the reinstatement of [Mr. Ramirez’s] DACA and employment authorization
 9 under the terms of that injunction will be addressed in the first batch of cases that USCIS reinstates,
 10 which could happen as early as this week.” *Id.* ¶ 4 (Ex. A). Mistakenly assuming that the
 11 government would finally do right by Mr. Ramirez, Mr. Ramirez’s counsel even offered to stipulate
 12 to stay the instant action pending the final resolution of *Inland Empire*, provided that Defendants
 13 would agree not to use the erroneous gang allegation against Mr. Ramirez in the future. *Id.* ¶¶ 2-3.

14 However, on April 5, 2018, while he was eagerly awaiting the restoration of his DACA and
 15 work authorization pursuant to the *Inland Empire II* Order, Mr. Ramirez was again victimized by the
 16 government’s ongoing inexplicable and wrongful campaign to deprive him of his rights. That day,
 17 Defendants’ counsel informed Mr. Ramirez’s counsel that his DACA and employment authorization
 18 had been reinstated, but simultaneously issued a NOIT to terminate Mr. Ramirez’s DACA status
 19 anew based yet again on their false accusation of gang affiliation (to which Mr. Ramirez has only 33
 20 days to respond from the date of issuance), writing that “unfortunately” the government “cannot
 21 agree to . . . a stipulation that would preclude USCIS from relying on ICE’s conclusions about Mr.
 22 Ramirez’s gang affiliation.” *Id.* ¶ 4 (Ex. A). In light of Defendants’ actions, their representation to
 23 this Court in their Opposition that the *Inland Empire II* Order would “at the least address [Mr.
 24 Ramirez’s] alleged injuries” has been proven false. Instead, the government’s empty compliance
 25 with the *Inland Empire II* Order has exacerbated Mr. Ramirez’s situation and heightened the urgent
 26 need for relief from this Court.

B. Defendants' Egregious Actions Underscore the Need for Immediate Relief, as Mr. Ramirez must Respond to the Notice of Intent to Terminate within 25 Days of this Filing

Defendants' latest actions only heighten the need for immediate relief from this Court, and the Court is well within its authority to act swiftly on the pending motion. *United States v. W.R. Grace*, 526 F.3d 499, 509 (9th Cir. 2008) (en banc) ("There is a 'well established' principle that '[d]istrict courts have inherent power to control their dockets.'") (citation omitted); see *Preminger v. Peake*, 552 F.3d 757, 769 & n.11 (9th Cir. 2008) (courts have broad discretion to set the timeframe for their decisionmaking). Mr. Ramirez has only until May 7 to respond to the NOIT, after which the government may swiftly act to again deprive him of his DACA status and work authorization, underscoring the need for immediate relief from this Court. Indeed, Defendants have now done on an accelerated timeframe precisely what Mr. Ramirez seeks to prevent by his Motion: the government has used the "gang affiliation" accusation they concocted to support his unlawful arrest and to initially improperly strip him of his DACA status to *again* justify stripping his DACA status at the very moment when a federal court has ordered that such status be reinstated.

And the government's basis for seeking to terminate Mr. Ramirez's DACA is as baseless as it has always been. The NOIT makes clear that the false allegations of gang association are again the basis for seeking to terminate Mr. Ramirez's DACA, claiming the following:

[Mr. Ramirez] admitted to previously associating with the "Sureno's" criminal street gang in the state of California, and to currently associating with the "Paizas" criminal street gang in the state of Washington. While DHS email records indicate that you disputed in immigration court that you are a gang member and that the immigration judge accepted this claim, you nonetheless admitted in immigration court that gangs may identify you as a rival gang member because of your tattoo and you admitted that you withdrew your appeal from placement in a Level 2 gang population at the Norwest Detention Center because you wanted to remain with the gang population. Gang association poses a significant public safety risk. Therefore, it appears that you do not warrant favorable consideration for DACA.

Bach Decl. ¶ 6 (Ex. C). As further detailed in the Motion (Mot. 11–15), there are multiple falsehoods and other substantive problems contained within this paragraph. Incredibly, the government now claims in the NOIT that Mr. Ramirez's statement to the Immigration Court in support of his asylum application that he fears being identified as a gang member *because of the government's efforts to tar him as one* (see Dkt 124-1, p. 14 (Exh. B, excerpt of Jan. 17, 2018 Tr. Of Oral Decision of I.J. at 9)) somehow establishes him as a gang member (or gang affiliated) and therefore a public safety risk,

1 despite the Immigration Judge’s finding (after considering all presented information) that Mr.
 2 Ramirez “was not in a gang, nor associated with one” (*id.*). As should be abundantly clear, it is the
 3 false accusation the government has made publicly about Mr. Ramirez that is likely to put him at risk
 4 of being targeted by actual gang members if he were deported to Mexico.² To argue that this credible
 5 fear on the part of Mr. Ramirez somehow brands him as gang affiliated is both nonsensical and cruel,
 6 but is regrettably consistent with Defendants’ prior arbitrary and unlawful actions that support Mr.
 7 Ramirez’s APA claims.

8 Moreover, even if the evidence suggested Mr. Ramirez were gang affiliated, which it does
 9 not, gang affiliation is not a crime (as Defendants have admitted, Opp. 10), and an investigation for,
 10 arrest for, or conviction of a “specified *crime*” is a predicate under the DHS’s National Standard
 11 Operating Procedures for seeking to terminate an individual’s DACA on the basis that he poses an
 12 egregious public safety (EPS) concern. *See* Mot. 14–15. Therefore, for multiple reasons, the NOIT’s
 13 reliance on the government’s prior false accusations of gang affiliation fail to establish an adequate
 14 basis for termination of Mr. Ramirez’s DACA.

15 The other basis that the NOIT cites for why Mr. Ramirez is not entitled to DACA status is that
 16 ICE is actively pursuing Mr. Ramirez’s removal. But, as explained in the Motion (Mot. 11), a
 17 removal order in and of itself is not a sufficient basis for termination of DACA status, as lack of
 18 lawful immigration status is a predicate to DACA eligibility and common among every DACA
 19 recipient. *See Inland Empire-Immigrant Youth Collective v. Duke*, 2017 WL 5900061, at *6 (C.D.
 20 Cal. Nov. 20, 2017) (“[I]ssuance of an NTA charging presence without admission does not provide a
 21 reasoned basis for terminating DACA.”) (internal quotation marks omitted). At bottom, the
 22 government is continuing to use the erroneous assertions it fabricated in the course of its initial bad
 23 act (wrongfully detaining Mr. Ramirez in violation of its own policies) as a predicate for seeking to
 24 strip his DACA status a second time (while again violating its own policies). The government’s
 25 circular and Kafkaesque position cannot justify the fundamental violations of Mr. Ramirez’s rights.

26
 27 ² As Mr. Ramirez has made clear, “[he] understands the colloquial use of ‘Paisas’ to mean Mexicans, and was
 28 attempting to communicate that if given the option, he would prefer to be placed [in the detention center] with other
 Mexicans,” but that he “has no connection or affiliation whatsoever to the Paizas gang.” Dkt. 78 (SAC ¶ 54).

* * *

As set forth herein, Mr. Ramirez has established good cause why the Court should expedite consideration of his Motion by promptly settling a hearing thereon, and thereafter granting relief to restore Mr. Ramirez to the status quo ante and put an end to the government's continued wrongful campaign against him.

DATED: April 12, 2018
Seattle, Washington

Respectfully submitted,

/s/ Theodore J. Boutrous, Jr.

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on April 12, 2018, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document should automatically be served this day on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Theodore J. Boutrous, Jr.

The Honorable Ricardo S. Martinez
Chief United States District Judge

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

CASE NO. 2:17-CV-00218-RSM-JPD

Daniel Ramirez Medina,

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY; U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT; and U.S.
CITIZENSHIP AND IMMIGRATION
SERVICES,

Defendants.

**DECLARATION OF NATHANIEL L. BACH
IN SUPPORT OF PLAINTIFF'S EX PARTE
MOTION TO EXPEDITE CONSIDERATION
OF MOTION FOR PRELIMINARY
INJUNCTION**

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1 I, Nathaniel L. Bach, declare as follows:

- 2 1. I am an attorney admitted to practice law *pro hac vice* before this Court. I am an associate at
3 the law firm of Gibson, Dunn & Crutcher LLP, and I am one of the attorneys responsible for
4 the representation of Daniel Ramirez Medina ("Mr. Ramirez") in the above-captioned action.
5 I submit this declaration in support of Mr. Ramirez's *Ex Parte* Motion to Expedite
6 Consideration of the Motion for Preliminary Injunction (Dkt. 122). The following facts are
7 within my personal knowledge and, if called and sworn as a witness, I would testify
8 competently to these facts.
- 9 2. On Thursday, March 22, 2018, I participated in a telephone call with Defendants' counsel
10 Jeffrey S. Robins and James Walker regarding the issuance and impact of the *Inland Empire*
11 *II* Order and timeframe for restoration of Mr. Ramirez's DACA status and employment
12 authorization pursuant to that order during which I informed Mr. Robins and Mr. Walker that
13 Mr. Ramirez would consider stipulating to stay the instant action following the restoration of
14 his DACA status and employment authorization if the government would agree not to use its
15 erroneous gang allegations against Mr. Ramirez in future proceedings.
- 16 3. On Monday, April 2, 2018, my co-counsel Katherine Marquart and I participated in a
17 subsequent telephone call with Mr. Robins during which I renewed Mr. Ramirez's offer to
18 stipulate to stay this action following the restoration of his DACA status and employment
19 authorization if the government would agree not to use its erroneous gang allegations against
20 Mr. Ramirez in future proceedings.
- 21 4. Attached hereto as Exhibit A is a true and correct copy of an email chain between me and
22 Defendants' counsel Jeffrey S. Robins, dated from February 27, 2018 to April 5, 2018.
- 23 5. Attached hereto as Exhibit B is a true and correct copy of the Reinstatement Notice, dated
24 March 30, 2018, that was attached to Mr. Robins' April 5, 2018 email to me.
- 25 6. Attached hereto as Exhibit C is a true and correct copy of the USCIS Notice of Intent to
26 Terminate, dated April 3, 2018, that was attached to Mr. Robins' April 5, 2018 email to me.

1 I declare under penalty of perjury under the laws of the United States and the State of Washington
2 that the foregoing is true and correct, and that I executed this Declaration on April 12, 2018, in Los
3 Angeles, California.

4 /s/ Nathaniel L. Bach

5 Nathaniel L. Bach
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EXHIBIT A

From: Robins, Jeffrey (CIV)
To: [Bach, Nathaniel L.](#)
Cc: [Walker, James \(CIV\)](#); [Dettmer, Ethan](#); [Mark Rosenbaum \(mrosenbaum@publiccounsel.org\)](#); [Luis Cortes \(lcortes@barreralegal.com\)](#); [Marquart, Katie](#)
Subject: [WARNING: MESSAGE ENCRYPTED][Not Virus Scanned] [Not Virus Scanned] RE: Ramirez Medina v. U.S. DHS, et al., Case No. 2:17-CV-00218 (W.D. Wa.)
Date: Thursday, April 5, 2018 2:25:53 PM
Attachments: [Ramirez Medina Reinstatement Notice 3.30.18.pdf](#)
[Ramirez Medina - NOIT.PDF](#)

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Nat,

Apologies for the delayed response following our call on Monday. First, I wanted to let you know that unfortunately Defendants cannot agree to the terms that you proposed regarding a stipulation that would preclude USCIS from relying on ICE's conclusions about Mr. Ramirez's gang affiliation or the administrative closure of removal proceedings.

Second, please find attached two documents, the notice of the reinstatement of Mr. Ramirez's DACA and employment authorization pursuant to the Inland Empire injunction, and a notice of intent to terminate, for which Mr. Ramirez has an opportunity to respond.

Please let me know if you have time to discuss tomorrow regarding our respective views on how both actions, and the Inland Empire class action, impact the pending PI operative complaint.

Thank you,

Jeff

Jeffrey S. Robins
Assistant Director
Office of Immigration Litigation
District Court Section
(202) 616-1246

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Subject: RE: Ramirez Medina v. U.S. DHS, et al., Case No. 2:17-CV-00218 (W.D. Wa.)

Jeff, if you are still free, please use the following dial in. Katie and I are on the line.

Toll-free dial-in number (U.S. and Canada): (866) 747-5969
mobile-friendly: 866-747-5969,,2132297241#

International dial-in number: (631) 812-8554

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Nathaniel L. Bach

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Subject: RE: Ramirez Medina v. U.S. DHS, et al., Case No. 2:17-CV-00218 (W.D. Wa.)

Yes, that works, and will do.

Jeff

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To: Robins, Jeffrey (CIV) <jrobins@CIV.USDOJ.GOV>
Cc: Walker, James (CIV) <jwalker2@CIV.USDOJ.GOV>; Dettmer, Ethan <EDettmer@gibsondunn.com>; Mark Rosenbaum (mrosenbaum@publiccounsel.org) <mrosenbaum@publiccounsel.org>; Luis Cortes (lcortes@barreralegal.com) <lcortes@barreralegal.com>; Marquart, Katie <KMarquart@gibsondunn.com>
Subject: RE: Ramirez Medina v. U.S. DHS, et al., Case No. 2:17-CV-00218 (W.D. Wa.)

Jeff, Monday is fine. Does 1:30pm PT work? If you happen to receive an update tomorrow as it relates to Mr. Ramirez and can send me a note via email, I would appreciate that. Regards,

Nat

Nathaniel L. Bach

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333 South Grand Avenue, Los Angeles, CA 90071-3197
Tel +1 213.229.7241 • Mobile +1 310.200.0787 • [Bio](#)
NBach@gibsondunn.com • www.gibsondunn.com

From: Robins, Jeffrey (CIV) [<mailto:Jeffrey.Robins@usdoj.gov>]
Sent: Thursday, March 29, 2018 12:34 PM
To: Bach, Nathaniel L. <NBach@gibsondunn.com>
Cc: Walker, James (CIV) <James.Walker3@usdoj.gov>; Dettmer, Ethan <EDettmer@gibsondunn.com>; Mark Rosenbaum (mrosenbaum@publiccounsel.org) <mrosenbaum@publiccounsel.org>; Luis Cortes (lcortes@barreralegal.com) <lcortes@barreralegal.com>; Marquart, Katie <KMarquart@gibsondunn.com>
Subject: RE: Ramirez Medina v. U.S. DHS, et al., Case No. 2:17-CV-00218 (W.D. Wa.)

Nat,

Last we spoke we planned to speak again today to discuss any developments regarding Mr. Ramirez's DACA. There are no adjudicatory developments to report yet, and while I expect news that I can update you on tomorrow, I will unfortunately be travelling for this weekend's holidays. Are you open to speaking again on Monday?

Thank you,

Jeff

Jeffrey S. Robins
Assistant Director
Office of Immigration Litigation
District Court Section
(202) 616-1246

From: Bach, Nathaniel L. [<mailto:NBach@gibsondunn.com>]
Sent: Tuesday, March 20, 2018 11:43 PM
To: Robins, Jeffrey (CIV) <jrobins@CIV.USDOJ.GOV>
Cc: Walker, James (CIV) <jwalker2@CIV.USDOJ.GOV>; Dettmer, Ethan <EDettmer@gibsondunn.com>; Mark Rosenbaum (mrosenbaum@publiccounsel.org) <mrosenbaum@publiccounsel.org>; Luis Cortes (lcortes@barreralegal.com)

<lcortes@barreralegal.com>; Marquart, Katie <KMarquart@gibsondunn.com>

Subject: RE: Ramirez Medina v. U.S. DHS, et al., Case No. 2:17-CV-00218 (W.D. Wa.)

Jeff, if you are still available tomorrow (Wed), let's plan to speak at 1:30pm PT / 4:30p ET. We can use the following dial in. Thanks

Toll-free dial-in number (U.S. and Canada): (866) 747-5969
mobile-friendly: 866-747-5969,,2132297241#

International dial-in number: (631) 812-8554

Conference code: 2132297241

Nathaniel L. Bach

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From: Robins, Jeffrey (CIV) [<mailto:Jeffrey.Robins@usdoj.gov>]

Sent: Monday, March 19, 2018 3:29 PM

To: Bach, Nathaniel L. <NBach@gibsondunn.com>

Cc: Walker, James (CIV) <James.Walker3@usdoj.gov>; Dettmer, Ethan <EDettmer@gibsondunn.com>; Mark Rosenbaum (mrosenbaum@publiccounsel.org) <mrosenbaum@publiccounsel.org>; Luis Cortes (lcortes@barreralegal.com) <lcortes@barreralegal.com>; Marquart, Katie <KMarquart@gibsondunn.com>

Subject: RE: Ramirez Medina v. U.S. DHS, et al., Case No. 2:17-CV-00218 (W.D. Wa.)

Counsel,

On Thursday, the parties in *Inland Empire* filed a joint stipulation that seeks to modify and clarify the court's class certification, preliminary injunction, and implementation order. Mr. Ramirez would remain a class member entitled to injunctive relief under a revised order, and the reinstatement of his DACA and employment authorization under the terms of that injunction will be addressed in the first batch of cases that USCIS reinstates, which could happen as early as this week.

As for a meet and confer call, I am available tomorrow afternoon and all day Wednesday.

Jeff

Jeffrey S. Robins
Assistant Director
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From: Bach, Nathaniel L. [<mailto:NBach@gibsondunn.com>]
Sent: Thursday, March 15, 2018 1:04 PM
To: Robins, Jeffrey (CIV) <jerobins@CIV.USDOJ.GOV>
Cc: Walker, James (CIV) <jwalker2@CIV.USDOJ.GOV>; Dettmer, Ethan <EDettmer@gibsondunn.com>; Mark Rosenbaum (mrosenbaum@publiccounsel.org) <mrosenbaum@publiccounsel.org>; Luis Cortes (lcortes@barreralegal.com) <lcortes@barreralegal.com>; Marquart, Katie <KMarquart@gibsondunn.com>
Subject: Re: Ramirez Medina v. U.S. DHS, et al., Case No. 2:17-CV-00218 (W.D. Wa.)

Yes, correct.

Nathaniel L. Bach

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On Mar 15, 2018, at 9:55 AM, Robins, Jeffrey (CIV) <Jeffrey.Robins@usdoj.gov> wrote:

Nat,

I'll follow up soon. And to confirm, we are in agreement that the dates to respond to your discovery requests are all extended pending further discussion?

Thanks,

Jeff

Jeffrey S. Robins
Assistant Director
Office of Immigration Litigation
District Court Section
(202) 616-1246

From: Bach, Nathaniel L. [<mailto:NBach@gibsondunn.com>]
Sent: Thursday, March 15, 2018 12:51 PM
To: Robins, Jeffrey (CIV) <jerobins@CIV.USDOJ.GOV>; Walker, James (CIV) <jwalker2@CIV.USDOJ.GOV>
Cc: Dettmer, Ethan <EDettmer@gibsondunn.com>; Mark Rosenbaum (mrosenbaum@publiccounsel.org) <mrosenbaum@publiccounsel.org>; Luis Cortes (lcortes@barreralegal.com) <lcortes@barreralegal.com>; Marquart, Katie <KMarquart@gibsondunn.com>

Subject: RE: Ramirez Medina v. U.S. DHS, et al., Case No. 2:17-CV-00218 (W.D. Wa.)

Jeff,

We continue to believe that discovery is warranted and appropriate in our case, at this juncture. However, we agree it makes sense to table further discussion until there has been a determination regarding the *Inland Empire* order. Once that has happened, please let us know your availability for a meet and confer call next week.

Thanks

Nathaniel L. Bach

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NBach@gibsondunn.com • www.gibsondunn.com

From: Robins, Jeffrey (CIV) [<mailto:Jeffrey.Robins@usdoj.gov>]
Sent: Wednesday, March 14, 2018 9:37 AM
To: Bach, Nathaniel L. <NBach@gibsondunn.com>; Walker, James (CIV) <James.Walker3@usdoj.gov>
Cc: Dettmer, Ethan <EDettmer@gibsondunn.com>; Mark Rosenbaum (mrosenbaum@publiccounsel.org) <mrosenbaum@publiccounsel.org>; Luis Cortes (lcortes@barreralegal.com) <lcortes@barreralegal.com>; Marquart, Katie <KMarquart@gibsondunn.com>
Subject: RE: Ramirez Medina v. U.S. DHS, et al., Case No. 2:17-CV-00218 (W.D. Wa.)

Nat,

I have not heard back from you regarding our ongoing discussion regarding the timing of your discovery in this matter and your views regarding the propriety of continuing to pursue discovery in light of the class action certification.

In follow-up to our earlier discussions, to be clear, Defendants do not agree that your discovery requests are timely under Rule 26(d)(1), and for the reasons previously discussed. Given the back and forth we've had on this we want to confirm our agreement to continue Defendants' deadline to respond to your pending discovery requests until resolved by Court (or withdrawn), further discuss the schedule for doing so, and formalize that agreement by stipulation.

Further, as you may know, the parties in *Inland Empire* have sought a short extension from the Court, through tomorrow, to continue negotiations regarding possible modifications to that court's order – including the implementation timeline. I can talk in further detail once a further stipulation is

filed by the parties tomorrow, but there will be greater certainty regarding Mr. Ramirez's claims via that injunction soon.

Thank you,

Jeff

Jeffrey S. Robins
Assistant Director
Office of Immigration Litigation
District Court Section
(202) 616-1246

From: Robins, Jeffrey (CIV)
Sent: Friday, March 02, 2018 8:21 AM
To: 'Bach, Nathaniel L.' <NBach@gibsondunn.com>; Walker, James (CIV) <jwalker2@CIV.USDOJ.GOV>
Cc: Dettmer, Ethan <EDettmer@gibsondunn.com>; Mark Rosenbaum (mrosenbaum@publiccounsel.org) <mrosenbaum@publiccounsel.org>; Luis Cortes (lcortes@barreralegal.com) <lcortes@barreralegal.com>; Marquart, Katie <KMarquart@gibsondunn.com>
Subject: RE: Ramirez Medina v. U.S. DHS, et al., Case No. 2:17-CV-00218 (W.D. Wa.)

Nat,

Defendants continue to review the Central District of California's preliminary injunction and are discussing how to proceed. Given the deadlines imposed by the preliminary injunction, I will follow up with you next week with regard to Defendants' intended course of action.

I would also suggest that we reconvene then regarding your proposed briefing schedule regarding your discovery requests, and ask whether you believe those requests are still appropriate in light of the certification of the class?

Thanks,

Jeff

Jeffrey S. Robins
Assistant Director
Office of Immigration Litigation
District Court Section
(202) 616-1246

From: Bach, Nathaniel L. [<mailto:NBach@gibsondunn.com>]
Sent: Thursday, March 01, 2018 10:08 AM
To: Robins, Jeffrey (CIV) <jrobins@CIV.USDOJ.GOV>; Walker, James (CIV)

<jwalker2@CIV.USDOJ.GOV>

Cc: Dettmer, Ethan <EDettmer@gibsondunn.com>; Mark Rosenbaum (mrosenbaum@publiccounsel.org) <mrosenbaum@publiccounsel.org>; Luis Cortes (lcortes@barreralegal.com) <lcortes@barreralegal.com>; Marquart, Katie <KMarquart@gibsondunn.com>

Subject: RE: Ramirez Medina v. U.S. DHS, et al., Case No. 2:17-CV-00218 (W.D. Wa.)

Jeff, following up on my email, please confirm that the government will be complying with the Order and restoring Mr. Ramirez Medina's DACA and EAD to their original date of expiration. Thank you.

Nathaniel L. Bach

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Tel +1 213.229.7241 • Mobile +1 310.200.0787 • [Bio](#)
NBach@gibsondunn.com • www.gibsondunn.com

From: Bach, Nathaniel L.

Sent: Tuesday, February 27, 2018 11:23 PM

To: Robins, Jeffrey (CIV) <Jeffrey.Robins@usdoj.gov>; Walker, James (CIV) <James.Walker3@usdoj.gov>

Cc: Dettmer, Ethan <EDettmer@gibsondunn.com>; Mark Rosenbaum (mrosenbaum@publiccounsel.org) <mrosenbaum@publiccounsel.org>; Luis Cortes (lcortes@barreralegal.com) <lcortes@barreralegal.com>; Marquart, Katie <KMarquart@gibsondunn.com>

Subject: Ramirez Medina v. U.S. DHS, et al., Case No. 2:17-CV-00218 (W.D. Wa.)

Jeff:

As you know, on Monday, the district court in *Inland Empire – Immigrant Youth Collective et al. v. Nielsen*, Case No. 5:17-cv-02048 (C.D. Cal.), issued an Order Granting Plaintiffs' Motion for Class Certification and Granting Plaintiffs' Motion for Classwide Preliminary Injunction ("Order"). As the government stated in its opposition to Daniel Ramirez Medina's PI Motion, he is a member of the putative, now certified, class in that action. As such, the Order requires, *inter alia*, that "Defendants immediately . . . restore [his] DACA and EAD[], subject to their original date of expiration." (Order at 35.)

Therefore, please confirm that the government will comply with the Order and immediately restore Mr. Ramirez Medina's DACA and EAD to their original date of expiration and the timeframe on which such restoration will occur.

We look forward to your prompt response. Sincerely,

Nat

Nathaniel L. Bach

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This message may contain confidential and privileged information. If it has been sent to you in error, please reply to advise the sender of the error and then immediately delete this message.

EXHIBIT B


Receipt Number [REDACTED]		Case Type I765 - APPLICATION FOR EMPLOYMENT AUTHORIZATION
Received Date 03/02/2016	Priority Date	Applicant [REDACTED] RAMIREZ MEDINA, DANIEL
Notice Date 03/30/2018	Page 1 of 1	
RAMIREZ MEDINA, DANIEL [REDACTED] [REDACTED]		Notice Type: Reinstatement Notice
<p>Pursuant to a court order issued by the U.S. District Court for the Central District of California on February 26, 2018, and modified on March 20, 2018, in <u>Inland Empire et al. v. Nielsen et al.</u>, No. 5:17-cv-02048 (C.D. Ca.), USCIS has reopened your Form I-821D and Form I-765, withdrawn the termination, reinstated your DACA and employment authorization from 05/05/2016, and has extended your DACA and employment authorization to 5/15/2018.</p> <p>An employment authorization document will be mailed separately.</p>		
Please see the additional information on the back. You will be notified separately about any other cases you filed.		
Nebraska Service Center U. S. CITIZENSHIP & IMMIGRATION SVC P.O. Box 82521 Lincoln NE 68501-2521 Customer Service Telephone: 800-375-5283		

EXHIBIT C

April 3, 2018

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
P.O. Box 82521
Lincoln, NE 68501-2521

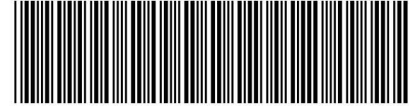


U.S. Citizenship
and Immigration
Services

DANIEL RAMIREZ MEDINA



USA



RE: I-821D, Deferred Action for Childhood Arrivals

NOTICE OF INTENT TO TERMINATE

On February 29, 2016, you filed Form I-821D, Consideration of Deferred Action for Childhood Arrivals (DACA). USCIS approved your Form I-821D on May 5, 2016 deferring your removal from the United States. On February 14, 2017, your DACA was terminated by the issuance of Form I-862, Notice to Appear, by U.S. Immigration and Customs Enforcement. However, pursuant to a court order issued by the U.S. District Court for the Central District of California on February 26, 2018, and modified on March 20, 2018, in Inland Empire et al. v. Nielsen et al., No. 5:17-cv-2048 (C.D. Ca.), on March 30, 2018, USCIS reopened your Form I-821D and Form I-765, withdrew the termination, reinstated your DACA and employment authorization from May 5, 2016, and extended your DACA and employment authorization to May 15, 2018.

USCIS has reviewed your deferred action pursuant to procedures outlined in the USCIS DACA Standard Operating Procedures (SOP) regarding DACA termination. Specifically, page 138 of the DACA SOP states:

If after consulting with ICE [U.S. Immigration and Customs Enforcement], USCIS determines

that exercising prosecutorial discretion after removal has been deferred under DACA is not consistent with the Department of Homeland Security's enforcement priorities, and ICE does not plan to issue an NTA, the officer should refer the case to HQSCOPS [Headquarters Service Center Operations Directorate], through the normal chain of command, to determine whether or not a NOIT [Notice of Intent to Terminate] is appropriate. If it is determined that the case warrants final termination, the officer will issue DACA 603 – Termination Notice [Enforcement Priority, Not Automatically Terminated] from the Appendix I.

USCIS has consulted with U.S. Immigration and Customs Enforcement (ICE) and has determined that exercising prosecutorial discretion to defer removal action in your case is not consistent with DHS's enforcement priorities. As you were already issued an NTA by ICE on February 14, 2017, subsequent to your grant of DACA, further referral to ICE for consideration of NTA issuance is unnecessary.

DHS records show that on January 17, 2018, an immigration judge ordered you removed to Mexico.

Additionally, a review of Form I-213, Record of Deportable Alien, reveals that during an encounter

with ICE on February 10, 2017, you admitted to previously associating with the "Sureno's" criminal street gang in the state of California, and to currently associating with the "Paizas" criminal street gang in the state of Washington. While DHS email records indicate that you disputed in immigration court that you are a gang member and that the immigration judge accepted this claim, you nonetheless admitted in immigration court that gangs may identify you as a rival gang member because of your tattoo and you admitted that you withdrew your appeal from placement in a Level 2 gang population at the Norwest Detention Center because you wanted to remain with the gang population. Gang association poses a significant public safety risk. Therefore, it appears that you do not warrant favorable consideration for DACA.

In light of your statements relating to gang association, DHS' determination that you are an enforcement priority, and the fact that ICE has informed USCIS that it is actively pursuing your removal and you were recently ordered removed, USCIS will not contemporaneously conclude that removal action should continue to be deferred in your case. Accordingly, USCIS has determined, in its unreviewable discretion, that you do not warrant a favorable exercise of prosecutorial discretion.

Deferred action is not a form of protection from removal; rather it is merely an acknowledgement that DHS does not, at that present time, intend to pursue removal. Deferred action may be terminated at any time at the Department's discretion.

As the court order in Inland Empire et al. v. Nielsen et al. requires issuance of a Notice of Intent to Terminate prior to the termination of DACA and related employment authorization documents for class members, referral of your case to HQSCOPS for consideration of whether or not a NOIT is appropriate in accordance with the DACA SOP is not necessary.

Based on the information outlined above, USCIS is notifying you of its intent to terminate your deferred action for childhood arrivals. A final decision to terminate your deferred action for childhood arrivals will not be made for 33 days. During that time, you may submit any evidence that you feel will overcome the grounds for termination. If your response is not received within the allotted time or if your response to this notice does not overcome the grounds for termination, USCIS will terminate your deferred action for childhood arrivals. If your deferred action for childhood arrivals is terminated, any associated employment authorization granted during the period of your deferred action will be terminated for cause.

Sincerely,



Kristine R. Crandall, Acting
Director
Officer: 0996

The Honorable Ricardo S. Martinez
Chief United States District Judge

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

CASE NO. 2:17-CV-00218-RSM-JPD

Daniel Ramirez Medina,

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY; U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT; and U.S.
CITIZENSHIP AND IMMIGRATION
SERVICES,

Defendants.

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S EX PARTE MOTION TO
EXPEDITE CONSIDERATION OF MOTION
FOR PRELIMINARY INJUNCTION (DKT.
122)**

[PROPOSED] ORDER GRANTING PLAINTIFF'S EX
PARTE MOTION TO EXPEDITE CONSIDERATION
OF MOTION FOR PRELIMINARY INJUNCTION
Case No. 2:17-cv-00218-RSM-JPD

1 This matter comes before the Court on Plaintiff Daniel Ramirez Medina's Ex Parte Motion to
2 Expedite Consideration of Motion for Preliminary Injunction (Dkt. 122). Upon consideration of the
3 motion and the record, the Court finds good cause to expedite consideration of the Motion for
4 Preliminary Injunction. IT IS ORDERED that:

- 5 1. A hearing on Plaintiff's Motion for Preliminary Injunction is hereby scheduled for
6 _____, 2018, at ____ a.m.

7
8 Dated this ____ day of _____, 2018.

9
10 _____
11 THE HONORABLE RICARDO S. MARTINEZ
12 CHIEF UNITED STATES DISTRICT JUDGE
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28

PRESENTED BY:

/s/ Theodore J. Boutrous, Jr.

GIBSON, DUNN & CRUTCHER LLP

THEODORE J. BOUTROUS, JR. (CA SBN 132099), *pro hac vice*

ETHAN D. DETTMER (CA SBN 196046), *pro hac vice*

KATHERINE M. MARQUART (CA SBN 248043), *pro hac vice*

NATHANIEL L. BACH (CA SBN 246518), *pro hac vice*

JESSE S. GABRIEL (CA SBN 263137), *pro hac vice*

/s/ Mark D. Rosenbaum

PUBLIC COUNSEL

MARK D. ROSENBAUM (CA SBN 59940), *pro hac vice*

JUDY LONDON (CA SBN 149431), *pro hac vice*

KATHRYN A. EIDMANN (CA SBN 268053), *pro hac vice*

ANNE M. HUDSON-PRICE (CA SBN 295930), *pro hac vice*

ELIZABETH HADAWAY (CA SBN 308800), *pro hac vice*

Attorneys for Plaintiff